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REGULATED NAVIGATION AREA

Chesapeake Bay Entrance

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[33 CFR Part 128]

[CGD 73-152 PH]

REGULATED NAVIGATION AREA

Chesapeake Bay Entrance

This notice proposes a regulated navigation area for the entrance to Chesapeake Bay to prevent vessel collisions with the trestlework of the Chesapeake Bay Bridge-Tunnel (CBBT) and with other vessels.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments concerning the proposal to the Commandant (G-CMC), U.S. Coast Guard, Washington, D.C. 20590. Each person submitting comments should include his name and address and organization, if any, identify the notice number (CGD 73-152 PH), and give reasons for any recommended change in the proposal. Copies of all written comments received will be available for examination both in Room 8234, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C., and at the Office of the Commander, Fifth Coast Guard District in Portsmouth, Virginia.

All comments received on or before February 11, 1974, will be fully considered before final action is taken on this proposal.

The Coast Guard will hold a public hearing on this proposal on Wednesday, January 23, 1974, at 10:00 a.m. in the Norfolk City Council Chambers, 11th Floor, Norfolk City Hall, 810 Union Street, Norfolk, Virginia. All interested persons are invited to be present or to be represented at this public hearing. All persons will be given an opportunity to express their views on the proposed regulations and to suggest any changes that may be considered desirable. Oral statements will be heard, but for completeness and accuracy of the record, all facts and arguments should also be presented in writing at the hearing.

The CBBT extends approximately 17 miles across the Chesapeake Bay between Virginia Beach and Cape Charles, Virginia. The structure is the only highway connection between Delmarva Peninsula and southeastern Virginia, and in 1972 alone it was used by over 1,400,000 vehicles.

The CBBT consists of low level trestlework, two tunnels, two bridges and an earth-fill causeway. The low level trestlework, which makes up most of the structure, extends over relatively shallow water areas where at present there are no established navigation requirements. Vertical clearance under the trestlework at mean high water is 23 feet. The two tunnels, which extend under the two main shipping channels, are each about one mile long and are connected to large artificial islands.

The trestlework of the CBBT has been damaged five times by various types of vessels. Repairs caused by these collisions have cost over 6 million dollars, or about $670,000 per year for each of the 9 years of the CBBT operation. During this 9 year period, because of damage to the structure, vehicular traffic on the CBBT has been prohibited for a total of 70 days and restricted to various degrees for an additional period of 3 years.

Research to determine the economic effect of closing the CBBT has been conducted by the Chesapeake Bay Bridge and Tunnel District with the cooperation of educational institutions, civic organizations, and governmental and business agencies. The study discloses that when the CBBT was closed in September 1972, after being damaged by an unmanned barge, the adverse economic impact on the surrounding area amounted to $1,700,000 per week, not including the cost to repair damage to the CBBT. Almost every industry in lower Delmarva was affected to some extent. Based upon the research data showing the economic effect of closing the CBBT, Virginia officials have projected that a potential loss of $4,024,815 per week would occur if the structure were closed in a future July-August period, which is the period of peak vehicular traffic using the CBBT each year.

Economic losses caused by closing the CBBT do not take into account inconvenience and personal hardship imposed on people affected by the closing. Nor do these losses take into account the loss of revenue the CBBT suffers because of changed travel patterns during and after the closing.

This proposal would establish a regulated navigation area at the entrance to Chesapeake Bay to protect the CBBT from collisions by vessels and to prevent collisions between vessels. The proposed area extends both east and west of the CBBT about five to seven miles and includes all of Thimble Shoal and Chesapeake Channels and the anchorage grounds south of Thimble Shoal Channel. It is emphasized that the anchorage regulations in 33 CFR 110.168(h) would apply to vessels in this regulated navigation area in addition to the regulations in this proposal.

In preparing these regulations the Coast Guard consulted with the Hampton Roads Vessel Traffic Systems Committee. Those on the Committee who participated include representatives of the following organizations: Hampton Roads Maritime Association, Virginia Port Authority, Virginia Pilot Association, American Export—Isbrandtsen Lines, Inc., Ramsay, Scarlett and Company, Inc., T. Parker Host, Inc., U.S. Lines, Inc., Sea-Land Service, Inc., Hinkins Steamship Agency, Inc., Furness, Withy and Company, Ltd., McAllister Brothers, Inc., Commander, Fifth Naval District, and the U.S. Army, Corps of Engineers.

An explanation of the proposed regulations follows:

The definition of "operate" in § 128.05(c) is the verb form of the definition proposed for "operator" in the proposed Puget Sound Vessel Traffic System regulations published at 38 FR 21228-21235 (FEDERAL REGISTER of August 6, 1973).

Section 128.07 requires each person operating a vessel in this regulated navigation area to comply with its regulations for vessel operation and with any directions issued by the Captain of the Port. Section 128.07 would apply not only to this regulated navigation area but also to each other regulated navigation area established under the authority of the Ports and Waterways Safety Act of 1972.

The proposed regulations in § 128.501(c), with two exceptions, apply only to vessels over 100 gross tons. Smaller vessels would not cause significant damage to the CBBT in the event of a collision. Paragraphs 128.501(c) (5) and (6), however, do apply to all vessels since compliance with these two regulations would tend to prevent collisions between vessels of all sizes operating in the proposed regulated navigation area.

Section 128.501(c)(1) prohibits, with one exception, the anchoring and mooring of a vessel over 100 gross tons in the proposed regulated navigation area. The exception allows a self-propelled vessel to anchor in an anchorage ground described in Part 110 of Title 33 of the Code of Federal Regulations if it maintains the capability to get underway within 30 minutes with sufficient power to maneuver to keep clear of the CBBT and other vessels, and if it has no defective steering equipment or other defect on the vessel that may impair its maneuverability. The purpose of the rule is to remove the danger of collision between vessels and the CBBT posed by a vessel anchoring or mooring in the proposed regulated navigation area. An anchored nonself-propelled vessel could drag anchor or part its anchor cable. If such a vessel were to drag anchor or go adrift in the proposed regulated navigation area, a significant danger of collision with the CBBT would result. An anchored self-propelled vessel would create the same danger of collision to the CBBT if its maneuverability were impaired at the time it parted its anchor cable or began dragging anchor. The proposed rule will also serve to prevent collisions between vessels. A vessel anchoring outside of an anchorage ground in the proposed regulated navigation area poses a danger of collision with other vessels underway in the vicinity especially during periods of reduced visibility.

The 30 minute standby requirement in § 128.501(c)(1)(ii) is intended to provide a self-propelled vessel anchored in an anchorage ground with sufficient time to react to hazardous weather conditions that may develop while anchored. If hazardous weather conditions were to develop, a vessel at 30 minutes standby could, if necessary, leave the anchorage quickly with sufficient maneuverability to prevent colliding with the CBBT.

The development of § 128.501(c)(1) is based upon two vessel collisions with the CBBT. In December 1967, a nonself-propelled barge that was anchored in the proposed regulated navigation area

parted its anchor cable and collided with the CBBT before rescue vessels arrived to take the barge in tow. The span was closed for 14 days thereafter and vehicular traffic was restricted for an additional ten months while structural repairs were being made. Direct costs to repair the damage in this incident were approximately $1,400,000. In January 1970, a large naval cargo ship that did not have full power dragged anchor through the trestlework of the CBBT and as a result closed the structure to vehicular traffic for 42 days. The incident occurred during hazardous weather conditions involving 40–50 knot winds. Repair costs in this incident amounted to approximately $2,600,000.

Section 128.501(c)(2) requires a vessel over 100 gross tons that is under tow in the proposed regulated navigation area to have a secondary towing rig in addition to its primary towing rig. The purpose of the rule is to insure that a vessel can be quickly recovered in tow using its secondary rig if the tow line or the primary rig is parted. The rule requires the secondary rig to be of sufficient strength for use in towing the vessel, to have a connecting device that can receive a shackle pin that is at least two inches in diameter, and to have a recovery pick-up line led outboard of the vessel's hull. The requirement to have the recovery pick-up line led outboard of the vessel's hull will allow bringing the secondary rig on board the towing vessel without having to board the other vessel. This rule is based upon vessel collisions with the CBBT in March 1967 and September 1972. In each incident an unmanned barge was cut adrift by a tugboat in distress and collided with the CBBT before the rescue vessel could take the barge in tow. The attempt to take each barge in tow was thwarted by hazardous weather conditions that prevented boarding the barge to attach a second tow line. If each barge had been equipped with a secondary towing rig to effect quick recovery in tow, collision with the CBBT probably could have been avoided.

Section 128.501(c)(3) requires that a self-propelled vessel over 100 gross tons that is equipped with an anchor or anchors be prepared to anchor immediately when underway within two nautical miles of the CBBT. A steering or main propulsion casualty on board a vessel underway in this area poses a significant risk of collision with the CBBT. Prudent seamanship generally indicates a need for anchoring a vessel in this situation, and the proposed rule requires vessels with anchors to have this capability.

Section 128.501(c)(4) limits the speed of vessels over 100 gross tons to 10 knots over the ground when operating within one nautical mile of the CBBT. Requiring a vessel to proceed slowly when near the CBBT will give the vessel more time, if it loses navigational control, to regain control quickly or to anchor before it collides with the structure.

Section 128.501(c)(5) restricts the use of Thimble Shoal Channel to vessels drawing at least 25 feet at the time of navigating that channel. When this proposed rule becomes effective 33 CFR 207.140, which is the existing navigation regulation for Thimble Shoal Channel, will be revoked by the U.S. Army Corps of Engineers. Section 207.140 prohibits the use of the main ship channel by any vessel drawing less than 20 feet except a passenger vessel. To reduce vessel congestion in this channel, the proposed rule increases the draft limitation to 25 feet. The Thimble Shoal North and South Auxiliary Channels are each dredged to a depth of 28 feet which is sufficient for safe navigation of vessels drawing less than 25 feet. The proposed rule also requires passenger vessels with drafts of less than 25 feet to use the auxiliary one way channels both to remove the danger of collision and to reduce congestion in Thimble Shoal Channel.

Section 128.501(c)(6) establishes one-way traffic in both auxiliary channels of Thimble Shoal Channel. Even though this traffic scheme has been traditionally followed by mariners in this area, the Coast Guard proposes that it be made mandatory. The area is subject to vessel congestion making the separation of traffic going in opposite directions desirable to avoid the possibility of collisions.

Section 128.501(c)(7) prohibits a vessel over 100 gross tons, the maneuverability of which is impaired, from entering the regulated navigation area unless it is attended by one or more tugboats that can escort it safely through the regulated navigation area, or unless the Captain of the Port otherwise authorizes the entry of the vessel. The rule also provides that if the vessel's manueverability becomes impaired after entering the regulated navigation area, the master or person in charge of the vessel must report the impairment to the Captain of the Port and obtain the assistance of one or more tugboats as soon as possible. This proposed rule requires the use of tugboats, in lieu of some other type of attending vessels, to ensure effective control over the vessel with the impaired maneuverability. Entry without the use of tugboats would be authorized by the Captain of the Port only if the vessel did not pose a hazard of collision with the CBBT or other vessels.

Section 128.501(c)(8) requires the master or person in charge of a vessel over 100 gross tons equipped with a radiotelegraph or radiotelephone, whose vessel does not have adequate navigational assistance on board, to report before entering the regulated navigation area the time and place of entry to the Captain of the Port. As soon as the Captain of the Port received this report, he would normally provide an escort for the vessel or provide it with navigation information necessary for it to proceed safely through the regulated navigation area.

Section 128.501(c)(9) provides for emergencies. The rule also requires that two precautionary measures be taken if a vessel anchors or moors in the regulated navigation area in an emergency. First, the Captain of the Port must be notified that such action is about to occur or has already been taken. This notification must be made without delay thus necessitating the use of ship-to-shore radiotelephone in most cases if the vessel is so equipped. Second, the vessel, unless it can comply with the proposed requirements for self-propelled vessels anchoring in an anchorage ground, must be attended as soon as possible by one or more vessels having the capability to insure that the vessel remains in its anchored or moored location.

Section 128.501(c)(10) authorizes law enforcement vessels and certain other vessels to deviate from the regulations applying to the regulated navigation area when carrying out their assigned operations. Operations authorized by the Captain of the Port in § 128 501(c)(10)(iii) would include salvage operations and operations to lay or repair cables.

Section 128.501(d) authorizes the Captain of the Port to direct a vessel anchored or moored in the proposed regulated navigation area because of an emergency to anchor, moor, or move elsewhere. A direction issued under this section would normally be issued orally to the master of the vessel. It is emphasized that the authority given to the Captain of the Port in this section is in addition to the authority he has to control vessels under 33 CFR 6.04–8.

A draft environmental impact statement is being prepared in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 and will be available to the public prior to the public hearing. Inquiries to obtain a copy of the draft should be sent to Commandant (G–WEP), U.S. Coast Guard, Washington, D.C. 20590, or to Commander(m), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705.

In consideration of the foregoing, the Coast Guard proposes to amend part 128 of Chapter I of Title 33 of the Code of Federal Regulations as follows:

1. By adding a new paragraph (c) to § 128.05 to read as follows:

§ 128.05 Definitions.

* * * * *

(c) "Operate" with respect to vessels means use, cause to use, or authorize the use of a vessel for the purpose of navigation.

2. By adding a new § 128.07 to read as follows:

§ 128.07 Vessel operator.

No person may operate a vessel in this regulated navigation area except in compliance with—

(a) The regulations in this part; and

(b) Any direction issued by the Captain of the Port under authority delegated to him in this part.

3. By adding a new § 128.501 to read as follows:

§ 128.501 Chesapeake Bay Entrance.

(a) The following is a Regulated Navigation Area—The waters of the Atlantic Ocean and Chesapeake Bay enclosed by a line beginning at Fort Wool Light at latitude 36°59′12″ N., longitude 76°18′09″ W.; thence to Cape Charles City Range

Rear Light at latitude 37°14'54" N., longitude 76°01'16" W.; thence southerly along the shoreline to Wise Point at latitude 37°06'58" N., longitude 75°58'18" W.; thence to Cape Charles Light at latitude 37°07'22" N., longitude 75°54'24" W.; thence to Cape Henry Light at latitude 36°55'35" N., longitude 76°00'27" W.; thence westerly along the shoreline to the east side of the entrance to Little Creek at latitude 36°55'49" N., longitude 76°10'33" W.; thence to the west side of the entrance to Little Creek at latitude 36°55'53" N., longitude 76°10'46" W.; thence westerly along the shoreline to the southernmost end of the Hampton Roads Tunnel south approach span at latitude 36°58'02" N., longitude 76°17'51" W.; thence northerly along that approach span to the point of beginning.

(b) For the purposes of this section—

(1) "CBBT" means Chesapeake Bay Bridge-Tunnel;

(2) Chesapeake Channel consists of the waters enclosed by a line beginning at Chesapeake Channel Lighted Buoy 7 at latitude 37°01'13" N., longitude 76° 03'08" W.; thence to Lighted Bell Buoy 11 at latitude 37°03'28" N., longitude 76°05'36" W.; thence to Lighted Buoy 12 at latitude 37°03'42" N., longitude 76°05'13" W.; thence to Lighted Bell Buoy 8 at latitude 37°01'29" N., longitude 76°02'47" W.; thence to the point of beginning;

(3) Thimble Shoal Channel consists of the waters enclosed by a line beginning at Thimble Shoal Channel Lighted Bell Buoy 1 at latitude 36°57'20" N., longitude 76°02'47" W.; thence to Lighted Buoy 19 at latitude 37°00'10" N., longitude 76°13'43" W.; thence to Lighted Gong Buoy 20 at latitude 37°00'19" N., longitude 76°13'39" W.; thence to Lighted Buoy 2 at latitude 36°57'30" N., longitude 76°02'45" W., thence to the point of beginning;

(4) Thimble Shoal North Auxiliary Channel consists of the waters in a rectangular area 450 feet wide adjacent to the north side of Thimble Shoal Channel, one boundary of which extends from Lighted Buoy 2 at latitude 36°57'30" N., longitude 76°02'45" W., to Lighted Gong Buoy 20 at latitude 37°00'19" N., longitude 76°13'39" W.; and

(5) Thimble Shoal South Auxiliary Channel consists of the waters in a rectangular area 450 feet wide adjacent to the south side of Thimble Shoal Channel, one boundary of which extends from Lighted Bell Buoy 1 at latitude 36°57'20" N., longitude 76°02'47" W. to Lighted Buoy 19 at latitude 37°00'10" N., longitude 76°13'43" W.

(c) Regulations:

(1) *Anchoring Prohibition.* No vessel over 100 gross tons may anchor or moor in this regulated navigation area, except for a self-propelled vessel that—

(i) Anchors or moors in an anchorage ground designated under § 110.168(g) of this chapter;

(ii) Can get underway within 30 minutes with sufficient power to maneuver to keep clear of the CBBT and other vessels; and

(iii) Has no defective steering equipment or other defect on the vessel that may impair the maneuverability of the vessel.

(2) *Secondary Towing Rig.* A vessel over 100 gross tons that is under tow in this regulated navigation area shall have a secondary towing rig in addition to its primary towing rig that:

(i) Is of sufficient strength for use in towing the vessel;

(ii) Has a connecting device that can receive a shackle pin of at least two inches in diameter; and

(iii) Is fitted with a recovery pick-up line led outboard of the vessel's hull.

(3) *Anchoring Detail.* A self-propelled vessel over 100 gross tons equipped with an anchor or anchors when underway within two nautical miles of the CBBT shall have personnel stationed where the vessel can be anchored in an emergency without delay.

(4) *Speed Limit.* No vessel over 100 gross tons may proceed at a speed of greater than ten knots over the ground in the following areas, unless the vessel can safely proceed only at a greater speed:

(i) Chesapeake Channel between Buoy No. 6 and Buoy No. 12.

(ii) Thimble Shoal Channel, and its North and South Auxiliary Channels, between Buoy No. 6 and Buoy No. 10.

(iii) The area outside Chesapeake Channel, Thimble Shoal Channel, and North and South Auxiliary Channels, that is within one nautical mile of the CBBT.

(5) *Draft Limitation.* No vessel drawing less than 25 feet may enter Thimble Shoal Channel except to cross that channel.

(6) *Direction of Traffic.* No vessel may proceed in—

(i) Thimble Shoal North Auxiliary Channel except in a westbound direction or to cross that channel; and,

(ii) Thimble Shoal South Auxiliary Channel except in an eastbound direction or to cross that channel.

(7) *Impaired Vessel Maneuverability.* (i) *Before Entry.* No vessel over 100 gross tons, the maneuverability of which is impaired because of any condition such as hazardous weather, defective steering equipment, defective main propulsion machinery, or damage to the vessel, may enter the regulated navigation area unless—

(A) It is attended by one or more tugboats of sufficient power to insure its safe passage through the regulated navigation area; or

(B) Its entry is otherwise authorized by the Captain of the Port.

(ii) *After Entry.* Unless otherwise authorized by the Captain of the Port, a vessel over 100 gross tons, the maneuverability of which becomes impaired after entering the regulated navigation area, must be attended as soon as possible thereafter by one or more tugboats required for use by this subparagraph.

(iii) *Report of Impairment.* The master or person in charge of a vessel over 100 gross tons, the maneuverability of which becomes impaired after entering the regulated navigation area, shall report the impairment to the Captain of the Port as soon as possible thereafter.

(8) *Report Required Before Entry.* (i) The master or person in charge of a vessel over 100 gross tons equipped with ship-to-shore communications equipment shall report before entering the regulated navigation area the time and place of entry to the Captain of the Port if the vessel does not have on board—

(A) Navigation charts during periods of unrestricted visibility;

(B) Navigation charts and operative radar during periods of fog, mist, falling snow, or heavy rain; or

(C) A person who is familiar with the waters of the regulated navigation area.

(ii) Compliance with this subparagraph is not required if communications equipment failure precludes reporting this information before entering the regulated navigation area.

(9) *Emergencies.* In an emergency, a vessel may deviate from any regulation in this paragraph to the extent necessary to avoid endangering persons, property, or the environment. However, as soon as possible before or after anchoring or mooring because of an emergency—

(i) The master or person in charge of the vessel shall notify the Captain of the Port of the place of anchoring or mooring; and

(ii) The vessel must be attended by one or more vessels of sufficient power to keep the vessel in the position where it is anchored or moored unless the vessel is a self-propelled vessel that can get underway within 30 minutes with sufficient power to maneuver to keep clear of the CBBT and other vessels, and that has no defective steering equipment or other defect on the vessel that may impair its maneuverability.

(10) *Other Deviations.* The following vessels may deviate from the regulations in this paragraph to the extent necessary to carry out their assigned operations:

(i) Law enforcement vessels.

(ii) Vessels engaged in the placement of buoys in, or in the surveying, maintenance, or improvement of waters in, this regulated navigation area.

(iii) Vessels engaged in operations authorized by the Captain of the Port.

(d) *Control of Vessel Anchoring, Mooring, and Movement.* When necessary to prevent damage to, or destruction or loss of, any vessel or the CBBT, the Captain of the Port may direct the further anchoring, mooring, or movement of a vessel that has anchored or moored in this regulated navigation area because of an emergency.

(Sec. 104, Pub. Law 92-340, 86 Stat. 424 (33 U.S.C. 1224); 37 FR 21943, 49 CFR 1.46(o)(4))

Dated: December 13, 1973.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

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